(எள) இந்திய முத்திரைத்தாள் (தமிழ்நாடு திருத்த) மசோதா, 1967 (சட்டப் பேரவை மசோதா எண் 13/1967).

THE HON. THIRU K. A. MATHIALAGAN: Mr. Speaker Sir, I beg to move—

'That the Indian Stamp (Madras Amendment) Bill*, 1967 (L.A. Bill No. 13 of 1967) be taken into consideration.'

According to entry 23 of Schedule I to the Indian Stamp Act, 1899 (Central Act II of 1899), stamp duty on conveyance is chargeable on the amount or value of the consideration for such conveyance as set forth therein. That is, the stamp duty is calculated on the basis of the consideration set forth in the instruments irrespective of the market value of the property conveyed. Parties present documents for registration specifiying a lesser amount as consideration and thereby pay a lesser stamp duty and evade a large portion of the stamp duty payable to the Government. Under provisions of Section 64 read with Section 27 of the Indian Stamp Act if consideration (if any) and all other facts and circumstances effecting the chargeability of any instrument with duty or amount of the duty with which it is chargeable are not fully and truly set forth in the document, it is punishable with a fine which may extend up to Rs. 5,000. In practice, however, these provisions are found to be ineffective, because it is not possible to prove the consideration paid. There is a tendency on the part of the people to record in documents prices much lower than those for which they buy and sell with a view to pay lesser duty. This has resulted in loss of revenue to the Government. In order to check undervaluation of documents and derive what is legitimately due to the Government, this Bill is now brought before this House for lovy of stamp duty on the basis of market value of the property. The same principle is proposed to be made applicable to instruments of gift and exchange.

This opportunity has also been availed of to make certain amendments to the Act which have become necessary to remove certain difficulties that have arisen in the working of the Act as explained in the statement of objects and reasons attached in the Bill.

The principle of this legislation has been accepted by the previous Government while in office. I request the House, Sir, to accept the motion.

*THIRU R. PONNAPPA NADAR: Mr. Speaker Sir, I rise to speak a few words regarding the salient points regarding the amendment to the Indian Stamp Act, 1899 in its application to the State of Madras.

The salient amendments are with regard to Section 27 of the Stamp Act. Section 27 deals with facts affecting duty to be set forth in instrument. Presently stamp duty is payable on the

* Published in the *Fort St. George Gazette* Extraordinary, dated 11th July 1967.

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amount or value of consideration for such conveyance on the amount set forth therein. As per the new amendment, there is an addition of the words 'market value' and the amended Section 27 would read as follows :—

The consideration (if any) and the market value and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of the duty with which it is chargeable shall be fully and truly set forth therein.

The words 'market value' are not found in the original Act. Sir, in the statement of objects and reasons it has been stated that as per the existing law, stamp duty is calculated on the amount or value of consideration as set forth in the instrument irrespective of market value of the property conveyed. So, the main contention that has been raised on behalf of the Government is that the previous legislation does not make mention of the market value as a basis. But I would answer that point. The market value is an elusive thing even though there is an explanation found in Section 47 which I would just bring to this notice of the House. In Section 47 A it is stated—

'For the purpose of this Act market value of any property shall be estimated to be the price which in the opinion of the Collector of the Appellate Authority as the case may be, such property would have fetched or fetch if sold in the open market o n the date of execution of the instrument of conveyance Exchange or Gift.'

According to this explanation market value is a notional concept and it would be very difficult to fix the market value. The determination of the market value is a thing which will have to be carefully thought of. In 'The Mail' paper a cartoon appeared recently and according to this cartoon, if a man wants to sell his house, first he will have to approach the Sub-Registrar who is the primary person who is to register the instrument and his valuation will have to be accepted. I am afraid, this would work as a great hardship in the hands of the unscrupulous Sub-registrars and that would be an engine of oppression. The rich people can very well afford to have their own way. But so far as the poor man is concerned, if he wants to sell a small piece of land he will be put to a great difficulty. It may be argued that there is a procedure for this. Primary valuation that has been fixed in the instrument is first of all accepted and whenever there is any dispute, that will be referred to the Collector for adjudication and then the Collector till then find out whether there is proper stamp duty. Then there is another process for appeal to the Subordinate Judge or the District Judge as the case may be. That is the legislation that is now contemplated. Such a cumbersome procedure, will not be in the interests of the poor people, because poor people cannot afford to engage a lawyer for the proceedings before the Collector or the adjudication by the Subordinate Judge or District Judge. This aspect may be consi-

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dered by the Government. What I would urge for the consideration of the Hon. Minister is that the term 'market value' may be defined. I searched the Indian Stamp Act and I was unable to lay my hands on the definition of the term in that Act. My submission is that market value differs from place to place. Revenue assessment is sometimes taken as the basis for determining market value. Under the Court Fees Act revenue assessment is taken as the basis. That may also cause hardship, because fertility of the soil and value of the land may differ from place to place. Effective check will have to be imposed against arbitrary determination of the market value by the Collectors and Sub-Registrars. This aspect may kindly be considered before this amendment is incorporated and rushed through.

Another point which I want to emphasis is with regard to the inclusion of gifts and exchanges within the ambit of this legislation. Market value is taken as the basis or criterion for determining the stamp duty payable on instruments relating to gifts and exchanges. Gifts are made out of love and affection. Love and affection are the only consideration and they canot be assessed in terms of market value.

With regard to exchanges also there will be difficulty. Suppose I have got a piece of land and my neighbour has got another piece of land and we want to exchange. It is only a question of mutual adjustment. Will it be wise on the part of the Government to bring gifts and exchanges with in the ambit of this legislation? This is the point that I want to bring to the notice of the Hon. Minister. It may be said that there is loss of revenue. Even under the present law, under section 64 of the Indian Stamp Act the District Registrars are clothed with the power and authority, to launch prosecutions, to initiate proceedings, call for the explanations of the parties concerned and fix the amount that is payable as Stamp Duty, if they feel that the instrument is not duly stamped. There is no necessity to bring in a fresh amendment. That is my contention.

Another point which I want to emphaise relates to the impounding of documents. A Supreme Court decision has been relied upon to show that the Collector cannot *suo moto* impound any instrument referred to him under Section 31 of the Act. If a document is insufficiently stamped and produced for registration, it could not be impounded—that is the provision found in the Indian Stamp Act now in force. Therefore it is said that the Collector should be clothed with full authority.

It will be proper and useful if 'market value' is defined in the Act itself and if gifts and exchanges are exempted from that defini tion. The provision made in clause 47-A will create difficulties These are the suggestions which I want to make.

DR. H. V. HANDE : Mr. Speaker Sir, my good Friend Sri R. Ponnappa Nadar highlighted the legal aspects involved n this Bill. I am one with Sri Ponnappa Nadar in his contention

that this legislation is hurried through unnecessarily because, as he pointed out, there is no necessity for this legislation. This legislation is very much hurried through. Many legal experts have told me and I want to point out the feelings of the people outside. I shall not go into the legal aspect ; I shall go into the humanitarian aspect.

Wide discretionary powers are going to be vested in medium and small officers in which case there is a serious possibility of victimisation and even corruption creeping in. These discretionary powers should be removed. I will take the Madras Urban Land Tax Act for a comparative study. In that Act the Government gave to the officers fantastic powers, they divided the areas into different zones and wanted to fix the market value in each zone. The Act was published in the *Fort St. George Gazette* copies of which we also got. Then it went to the Court and the Court struck it down. The Members of the Treasury Bench know about it. The Court held that earmarking different zones and fixing the market value of land for each zone was arbitrary. That Act came in another form and in this second Act more discretionary powers were given. Even persons having small houses which will fetch a rent of twenty to fifty rupees were included and they will find it very difficult to pay the tax. I take the Urban Land Tax Act for comparison, because the same difficulties which arose in the working of that Act will arise in the working of this Act also.

I think it is too late to make any alterations in this Bill. Poor people cannot afford to secure legal aid. Friends like Mr. Ponnappa Nadar may render easy legal aid. But some advocates charge fantastic fees. Poor people will be hit hard. This is quite an arbitrary measure and it gives arbitrary powers. The idea underlying this amending Bill is that the revenue legitimately due to the Government should not be lost. The Government should not be cheated of its dues and that is a laudable object. I do not support anybody who tries to cheat the Government.

In this connection, the question of Stamp papers also come in. According to the Law Minister, even payment in cash is not acceptable in the Courts. After the coming into force of this Act. I want the Hon. Minister for Food to bestow immediate attention on obtaining adequate stamps from the Central Government and distributing them properly. Difficulties are not realised unless they are brought to notice. Poor people find it difficult to secure even stamps of the value of 25 Paise and 50 Paise. Even if they want to file a complaint, they have to affix stamps. All these things may be taken into consideration. I request the Hon. Chief Minister to give us some assurance in this matter.

THE HON. THIRU C. N. ANNADURAI : Mr. Speaker, Sir, I fully realise some of the difficulties that have arisen out of the paucity of stamp papers and the means of getting them. This Government have already intimated to the Central Government about that and they have also responded though in a very small way. We shall go on urging upon the Central Government to look into the matter.

As for the other points raised especially by my hon. Friend, Thiru Ponnappa Nadar that the new amendment to the Stamp Act will act as a harassment to the people, any law if it is miscarried will be a harassment and everybody accepts that. Because of the possibility of harassment, one cannot give up any legislation altogether. As far as this legislation is concerned, this House discussed previously and accepted one basic fact that there is large scaie evasion as far as this stamp duty is concerned and the amount that is registered is not the real amount of money that they get. Somehow this loophole should be plugged and the present Government are only having that in view and even there, just to avoid harassment we have got appellate authorities for that. It is not as if the Registrar is empowered to say, this and this alone is the market value. If the amount that he settles as market value is not accepted by the Party, they have got the right to appeal to them. As far as the market value is concerned, my hon. Friend, Thiru Ponnappa Nadar has pertinently pointed out the defects noticed in some section of the Act, but he has qualified it by saying that it is very elusive. Of course, markets are elusive and therefore the market value is bound to be elusive. That is why it is to be a question of give and take. It is to be a question of one amount being declared by the Registrar and the parties saying that this is not the market value. They can discuss about it and even if they are not able to come to a conclusion, they can appeal against it. I may tell you one thing. This Government do not expect much increase of revenue directly out of this legislation. What we expect is that if there is such a prohibition through this amending Bill, people will be more sincere in their valuation because there will always be an apprehension in their mind that if they put the value of the property as Rs. 5,000 where it really is worth Rs. 50,000 they may think that if they put it at such a low value, it may not be registered, and therefore they will be a little more liberal. We expect indirect effect of this legislation rather than direct effect. If, in its working, we find some of the difficulties that have been raised by my hon. Friends, we certainly assure this House that we will look into the matter and do what is needed.

திரு. பி. ஜி. கருத்திருமன் : சபாநாயகர் அவர்களே, இந்த மசோதாவின் மேல் நண்பர் கனம் பொன்னப்ப நாடார் அவர்களும், கனம் முதல் அமைச்சர் அவர்களும் குறிப்பிட்ட கருத்துக்களுக்கு நன்றி. ஆனால் ஒரு விஷயம், இதிலே அதிகமான ஏமாற்றுதல் இருக்கக் கூடாது, நியாயமான நிலை இருக்கவேண்டும் என்று சொல்வதை யாரும் மறுக்க முடியாது. ஆனால், திரு. பொன்னப்ப நாடார் குறிப்பிட்டது போல், நிலத்தின் விலை இடத்திற்கு இடம், பூமிக்குப் பூமி மாறுகிறது. ஒரே பூமி கூட, ரூ. 15,000 ரூ. 10,000 அல்லது ரூ. 7,000 என்று இருக்கிறது. ஆகவே என்னுடைய அபிப்பிராயம் இந்த மார்கெட் வால்யூ போடுவதைப் பற்றி புனராலோசனை செய்வதைவிட, 100க்கு ஏழரை ரூபாய் என்றிருப்பதை ரூ. 10 என்றுகூட உயர்த்திவிட்டால் ஒரு வரும்படியும் வரும், தொல்லைகளும் இருக்காது. இன்னொரு நிலைமையும் வரக்கூடும். இந்தத் தொந்தரவுகள் என்னத்திற்கு என்று, மக்கள் அத்தியாவசியமாக இருந்தாலொழிய விற்பனை செய்வது, வாங்குவது என்பதையே விட்டு விடலாம். அதனாலும், வருவாய் வெகுவாகக் குறையலாம். அதையும் அரசாங்கம் யோசிக்க வேண்டும். ஆகவே, நான் குறிப்பிட விரும்புவது என்னவென்றால்,

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" கிப்டுகள் ", " எக்ஸ்சேஞ்சுகள் " இவற்றிற்கு நீக்கம் கொடுப்பது நலமாக இருக்கும். மார்க்கெட் வால்யூ நிர்ணயிப்பதை சர்க்கார் ரூல்களிலே போடலாம் என்று நினைக்கிறேன். அப்படிச் செய்தால் மார்க்கெட் வால்யூ விற்குக் குறைவாகச் செய்யக் கூடாது என்கிற பயம் மக்களுக்கு உண்டாகும். அதே சமயத்திலே, சர்க்கார் விதிகளில் நிர்ணயித்துக் கொள்ளலாம் என்பதைக் குறிப்பிட்டு, முடிக்கிறேன்.

மாண்புமிகு திரு. கே. ஏ. மதியழகன் : மாண்புமிகு பேரவைத் தலைவர் அவர்களே, மாண்புமிகு முதல் அமைச்சர் பேசிய பிறகு நான் கூறுவதற்கு அதிகம் இல்லை. கனம் உறுப்பினர் திரு. பொன்னப்ப நாடார் மார்க்கெட் வால்யூ ஏதோ மாயப் பொருள் போலச் சொன்னார்கள். இந்த மசோதாவிலே இல்லையென்றாலும், ஏற்கனவே மார்கெட் வால்யூ என்பதை எப்படி நிர்ணயிக்க வேண்டும் என்பதற்கு பல கோர்ட்டு தீர்ப்புக்கள் இருக்கின்றன. அதோடு கூட, வெல்த் டாக்ஸ் ஆக்ட், கிப்ட் டாக்ஸ் ஆக்ட், இவற்றில் மார்கெட் வால்யூ என்பதற்கு இலக்கணம் கூறப்பட்டிருக்கிறது. அதேபோல அர்பன் லாண்ட் டாக்ஸ் ஆக்டிலும் மார்க்கெட் வால்யூவிற்கு இலக்கணம் கொடுக்கப்பட்டிருக்கிறது. இந்த மசோதாவிலும் அந்த அடிப்படையில் தான் அமைந்திருக்கிறது. அதோடு பல கோர்ட்டு தீர்ப்புக்களும் இருக்கின்றன. சுருக்கமாகச் சொல்ல வேண்டும் என்றால், மார்க்கெட் வால்யூ என்பது,

'Market value is what the willing vendor and willing purchaser will agree on'

என்பதுதான் கோர்ட்டு தீர்ப்பு. சம்பிரதாயமும் அதுதான். விற்கிறவரும் வாங்குகிறவரும், இருசாராரும், ஒருமித்து சம்மதிக்கும் தொகை தான். அது கிப்ட் டாக்ஸ் ஆக்டிலும், வெல்த் டாக்ஸ் ஆக்டிலும், அதே போல நம்முடைய அர்பன்லாண்ட் டாக்ஸிலும் கொடுக்கப்பட்டிருக்கிறது. இந்த மசோதாவை ஏற்கனவே இருந்த சர்க்கார் கொள்கையளவில் ஆதரித்திருக்கிறது என்பதையும் தெரிவித்துக் கொண்டு, அந்தக் கட்சியைச் சார்ந்தவர்கள் தான் இன்றைக்கு எதிர்க்கட்சி நண்பர்கள். ஆகவே, அவர்களும் இதற்கு ஆதரவு கொடுக்க வேண்டும் என்று கேட்டு, இதை நிறைவேற்றித் தரவேண்டும் என்று கேட்டுக் கொள்கிறேன்.

மாண்புமிகு பேரவைத் தலைவர் : பேரவையின் முன்னுள்ள கேள்வி—

"1967-ம் ஆண்டு இந்திய முத்திரைத்தாள் (தமிழ்நாடு திருத்த) மசோதா (சட்டப்பேரவை மசோதா எண் 13/1967) ஆய்வுக்கு எடுத்துக் கொள்ளப்படவேண்டும் ".

தீர்மானம் பேரவையின் முடிவிற்கு விடப்பட்டு, நிறைவேற்றப்பட்டு, மசோதா பிரிவு வாரியாக ஆய்வுக்கு எடுத்துக் கொள்ளப்பட்டது.

பிரிவுகள் 2 முதல் 10 முடிய பேரவையின் முடிவுக்கு விடப்பட்டு நிறைவேற்றப்பட்டன.

பிரிவு 1, முகப்புரை, நெடுந்தலைப்பு, ஆகியவை பேரவையின் முடிவுக்கு விடப்பட்டு, நிறைவேற்றப்பட்டன.

மாண்புமிகு திரு. கே. ஏ. மதியழகன் : மாண்புமிகு பேரவைத் தலைவர் அவர்களே,

" 1967-ம் ஆண்டு இந்திய முத்திரைத்தாள் (தமிழ்நாடு திருத்த) மசோதா (சட்டப்பேரவை மசோதா எண் 13/1967) சட்டமாக நிறைவேற்றப்பட வேண்டும். பிற்பகல் 1-22

என்று முன்மொழிகிறேன்.

மசோதா சட்டமாக ஆக்கப்படவேண்டுமென்ற தீர்மானம் பேரவையின் முடிவுக்கு விடப்பட்டு, நிறைவேற்றப்பட்டது.